

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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MIGUEL ANGEL CEPEDA CARRASCO,
Plaintiff

Case No. 2:17-cv-01879-JAD-CWH

ORDER

v.
STATE OF NEVADA CLARK COUNTY,
Defendant.

This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former county inmate. On July 12, 2017, the Court gave plaintiff 30 days to file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of \$400.00. ECF No. 3. That deadline expired with no action or response by the plaintiff.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1)

1 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
2 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
3 of cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782
4 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at
5 1260-61; *Ghazali*, 46 F.3d at 53.

6 I find that the first two factors, the public's interest in expeditiously resolving this
7 litigation and the Court's interest in managing the docket, weigh in favor of dismissal. The
8 third factor—risk of prejudice to defendants—also weighs in favor of dismissal, since a
9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
10 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524
11 (9th Cir. 1976). The fourth factor—public policy favoring disposition of cases on their
12 merits—is greatly outweighed by the factors in favor of dismissal. Finally, a court's warning
13 to a party that his failure to obey the court's order will result in dismissal satisfies the
14 “consideration of alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at
15 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring plaintiff to file an
16 application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee within 30
17 days expressly stated: “IT IS FURTHER ORDERED that if Plaintiff does not timely
18 comply with this order, dismissal of this action may result.” ECF No. 3 at 2. Thus, plaintiff
19 had adequate warning that his case would be dismissed if he did nothing.

20 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without
21 prejudice based on plaintiff's failure to file an application to proceed *in forma pauperis* or pay
22 the full filing fee in compliance with this Court's July 12, 2017, order. The Clerk of Court
23 shall enter judgment accordingly.

24 DATED THIS 21st day of August 2017.

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28 UNITED STATES DISTRICT JUDGE